

DELEGATE J. CLARK (presiding):
The Chair recognizes Delegate Cardin.

DELEGATE CARDIN: Chairman Kiefer, I am a little confused by two answers you gave. The last one to Delegate Willoner is the one that reversed an answer you had given earlier.

Do you mean section 5 to apply to all offenses, for example, traffic violations? Would then the individual have the right to call for a jury trial in a traffic violation?

DELEGATE J. CLARK (presiding):
Delegate Kiefer.

DELEGATE KIEFER: Let me ask my experts what the present law is. Delegate Bothe?

DELEGATE J. CLARK (presiding):
Delegate Bothe.

DELEGATE BOTHE: The present law is one can demand a jury trial in a traffic case, and our intention was to keep the law as it now is.

DELEGATE J. CLARK (presiding):
Delegate Cardin.

DELEGATE CARDIN: I was not aware, but I am afraid that this could create some havoc with our new four-tier court system.

DELEGATE J. CLARK (presiding):
Delegate Kiefer.

DELEGATE KIEFER: I do not see how that would be any different than what our present court system is. If you are arrested in a magistrate's court, you can always ask for a trial by jury, and then the case is referred to the state's attorney and proper action is taken.

DELEGATE J. CLARK (presiding):
Delegate Carson.

DELEGATE CARSON: Suppose, for example, you are charged with a crime for which there is no jail sentence, no incarceration whatsoever is available, but only a fine of ten dollars. There is one such crime I know of in this State, which I need not mention. Do you have a right to a jury trial in that instance mandated by the Constitution?

DELEGATE J. CLARK (presiding):
Delegate Kiefer.

DELEGATE KIEFER: I am not about to try to tell you what the criminal law now is. This does not in any way change the right to a trial by jury in criminal cases where this is properly available.

I will defer to Delegate Bothe or Delegate Willoner.

DELEGATE J. CLARK (presiding):
Delegate Bothe.

DELEGATE BOTHE: If Delegate Willoner is ever charged with that offense, he would not want a jury trial, but he would be entitled to it.

DELEGATE J. CLARK (presiding):
Delegate Carson.

DELEGATE CARSON: I still have not received an answer. I am asking whether this constitutional provision, with regard to jury trial, gives the right for a jury trial for a minor misdemeanor punishable by a fine of ten dollars but no jail.

DELEGATE J. CLARK (presiding):
Delegate Bothe.

DELEGATE BOTHE: Mr. Carson, this has been the law in Maryland from time immemorial. I do not know when it started, but I think with our first Constitution.

You may be aware that if a magistrate neglects to advise, regardless of the nature of the crime with which the accused is charged, that he has a right to a jury trial, whatever verdict results is reversible on that ground alone.

In Baltimore City, where we substantially have the four-tier system in effect with the municipal courts that have no juries available and the circuit court, and so on through the appellate levels, this circumstance has never created any problem, and we have no reason to contemplate that it will in the future.

DELEGATE J. CLARK (presiding):
Delegate Kiefer.

DELEGATE KIEFER: Delegate Carson, let me say this to you. I have learned more in the last three months about constitutional law, criminal law, and various things related to this, but let me just read to you Article 21 of the present Declaration of Rights.

Incidentally, ladies and gentlemen, for your convenience, these are attached as Exhibit A to the Recommendation No. 1. Exhibit B contains the first 14 amendments of the federal Constitution. That is just simply for your convenience in following any discussions.

Article 21 says, "In all criminal prosecutions every man hath a right to be informed of the accusation against him, to have a copy of the indictment or charge in due time if required to prepare for his defense, to be allowed counsel, to be confronted with witnesses against him,